

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

**CLEVELAND BROWNS FOOTBALL
COMPANY LLC,**

Plaintiff,

v.

THE CITY OF CLEVELAND,

Defendant,

THE STATE OF OHIO,

Intervenor-Defendant.

Case No. 1:24-CV-01857-DAR

Judge David A. Ruiz

**MOTION TO SCHEDULE CASE
MANAGEMENT CONFERENCE
PURSUANT TO F.R.C.P. 16 AND
L.R. 16.1**

Pursuant to Federal Rule of Civil Procedure 16 and Local Rule 16.1, plaintiff respectfully requests that the Court schedule the initial Case Management Conference at the Court's earliest convenience.

This action has been pending for nearly 120 days since all defendants first appeared. Plaintiff filed this action on October 24, 2024. Doc. 1. Defendant City of Cleveland entered a notice of appearance on November 15, 2024. Doc. 11. The Ohio Attorney General moved to intervene on October 31, 2024 and was joined as a defendant by order dated November 26, 2024. Docs. 8, 13, 14.

Local Rule 16.1(b)(2) provides that the Case Management Conference shall be held "not later than ninety (90) days from the date counsel for the defendant(s) has entered notice of appearance, regardless of whether a responsive pleading has been filed by that date." In addition, Federal Rule of Civil Procedure 16(b)(2) provides that the Court must issue the initial scheduling order "as soon as practicable, but unless the judge finds good cause for delay, . . . within the earlier

of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.”

Plaintiff accordingly requests that the Court set the Case Management Conference at its earliest convenience, so that the “order containing the Case Management Plan governing the litigation” may be promptly issued and litigation proceed on the ordered schedule. L.R. 16.3(b)(4). Significant further delay to the setting of the case schedule risks leaving plaintiff without the ability to obtain effective judicial relief. Plaintiff brought this lawsuit to enforce and clarify its right to occupy a new stadium after its current stadium lease expires in February 2029, and construction must begin on a new stadium by early 2026 to be ready by 2029. Doc. 30-1 ¶¶ 1-7, 81.

Furthermore, the Court should promptly schedule the Case Management Conference because defendants have invoked the absence of an ordered date for the Case Management Conference to reject as “premature” plaintiff’s request for a Rule 26(f) conference. That is improper, however, because Rule 26(f)(1) provides that “the parties must confer *as soon as practicable*—and in any event at least 21 days before a scheduling conference is to be held or a scheduling order is due under Rule 16(b).” (emphasis added). Because defendants are unwilling to meet their obligation to confer as soon as practicable, an order setting a date for the Case Management Conference is necessary to cause defendants to confer under Rule 26(f) as the rule requires.

Plaintiff notes that defendants’ motions to dismiss the first amended complaint, as well as its motion for leave to file a second amended complaint, are pending. *See* Docs. 24, 25, 30. The pendency of those motions, however, is not a basis to delay the Case Management Conference beyond the deadline set by Local Rule 16.1. *See* L.R. 16.1(b)(2).

Respectfully submitted,

/s/ Anthony C. White

Anthony C. White (0062146)

Robert F. Ware (0055515)

Kip T. Bollin (0065275)

Thomas M. Ritzert (0085370)

Kyle A. Hutnick (0095673)

THOMPSON HINE LLP

3900 Key Center

127 Public Square

Cleveland, OH 44114

Phone: (216) 566-5500

Fax: (216) 566-5800

Tony.White@ThompsonHine.com

Rob.Ware@ThompsonHine.com

Kip.Bollin@ThompsonHine.com

Thomas.Ritzert@ThompsonHine.com

Kyle.Hutnick@ThompsonHine.com

William Savitt (*pro hac vice pending*)

Bradley R. Wilson (*pro hac vice pending*)

Anitha Reddy (*pro hac vice pending*)

Adam M. Gogolak (*pro hac vice pending*)

WACHTELL, LIPTON, ROSEN & KATZ

51 West 52nd Street

New York, NY 10019

Phone: (212) 403-1000

Fax: (212) 403-2000

WDSavitt@wlrk.com

BRWilson@wlrk.com

AReddy@wlrk.com

AMGogolak@wlrk.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on March 24, 2025, and counsel of record will receive a notice of filing through the Court's electronic filing system in accordance with Fed. R. Civ. P. 5(b)(2)(E) and this Court's Local Rules.

/s/ Anthony C. White

Anthony C. White (0062146)

One of the Attorneys for Plaintiff